

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2028

To provide for a uniform concessions policy for the Federal land management agencies, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

JULY 13, 1995

Mr. HANSEN (for himself and Mr. DUNCAN) introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committees on Agriculture and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

## A BILL

To provide for a uniform concessions policy for the Federal land management agencies, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Federal Land Manage-  
5       ment Agency Concession Reform Act of 1995”.

6       **SEC. 2. PURPOSE.**

7       The purpose of this Act is to provide a uniform policy  
8       for management of concessions by Federal land manage-

1 ment agencies (Forest Service, United States Fish and  
2 Wildlife Service, National Park Service, Bureau of Land  
3 Management, Bureau of Reclamation and Corps of Engi-  
4 neers) which—

5 (1) recognizes the importance of a public-pri-  
6 vate partnership in providing a quality visitor experi-  
7 ence on Federal lands; and

8 (2) utilizes the competitive process to ensure  
9 reasonable prices and quality services for the public,  
10 a fair return for the Federal Government, and a rea-  
11 sonable opportunity for the economic viability of the  
12 concessioner.

13 **SEC. 3. DEFINITIONS.**

14 For the purposes of this Act:

15 (1) The term “Secretary concerned” means—

16 (A) the Secretary of the Interior with re-  
17 spect to the United States Fish and Wildlife  
18 Service, National Park Service, Bureau of Land  
19 Management, and Bureau of Reclamation;

20 (B) the Secretary of Agriculture with re-  
21 spect to the Forest Service; and

22 (C) the Secretary of the Army with respect  
23 to the United States Army Corps of Engineers.

24 (2) The term “concession” means a commercial  
25 business which provides visitor services, facilities, or

1 activities on Federal lands or waters pursuant to a  
2 concession services agreement or concession license.

3 (3) The term “concession service agreement”  
4 means a formal written agreement between the  
5 agency head and the concessioner which sets forth  
6 the terms and conditions under which the conces-  
7 sioner is to provide visitor services, facilities or ac-  
8 tivities as well as the rights and obligations of the  
9 Federal Government.

10 (4) The term “concession license” means a  
11 written agreement between the agency head and the  
12 concessioner to provide recreation services or activi-  
13 ties on a limited basis.

14 (5) The term “Board” means the Board of  
15 Concession Appeals established by section 12.

16 (6) The term “substantial capital investment”  
17 means a required investment either for new fixed fa-  
18 cilities or acquisition of existing capital improve-  
19 ments greater than 10 percent of the estimated  
20 gross receipts over the life of a concession service  
21 agreement.

22 (7) The term “renewal incentive” means a cred-  
23 it based on past performance toward the score  
24 awarded by the Secretary to a concessioner’s pro-

1 posal submitted in response to a solicitation for the  
2 renewal of such contract.

3 **SEC. 4. NATURE AND TYPES OF CONCESSION AUTHORIZA-**  
4 **TIONS.**

5 (a) TYPES.—The Secretary concerned may enter into  
6 concessions authorizations, as follows:

7 (1) CONCESSION SERVICES AGREEMENT.—A  
8 concession service agreement shall be entered into  
9 for all concessions where the Secretary concerned  
10 makes a finding that the provision of concession  
11 services is in the interest of the Federal Government  
12 and issues a competitive offering for concession serv-  
13 ices, facilities or activities. Concession service agree-  
14 ments may require substantial capital investments.

15 (2) CONCESSION LICENSE.—A concession li-  
16 cense may be entered into for those activities which  
17 are infrequent (including one-time events), for which  
18 the Secretary concerned determines there exists no  
19 need to limit the number of concessioners, or for  
20 which the Secretary concerned makes a finding of no  
21 competitive interest.

22 (3) LANDS UNDER MULTIPLE JURISDIC-  
23 TIONS.—The Secretaries of the Departments con-  
24 cerned shall designate an agency to be the lead  
25 agency concerning concessions which conduct a sin-

1       gle operation on lands or waters under the jurisdic-  
2       tion of more than one agency. The agency so des-  
3       ignated shall issue a single authorization under  
4       paragraphs (1) and (2) for such operation.

5       (b) TERM.—

6           (1) IN GENERAL.—The term of concession serv-  
7       ice agreements which require substantial capital in-  
8       vestment shall be 10 years, except that the Secretary  
9       concerned may agree to a longer term if the Sec-  
10      retary determines (in his discretion) that such longer  
11      term is in the public interest or necessary due to the  
12      extent of investment required. The term for a con-  
13      cession license may not exceed three years.

14          (2) TEMPORARY EXTENSION.—The Secretary  
15      may agree to temporary extensions of concession  
16      service agreements for up to two years on a non-  
17      competitive basis to avoid interruption of services to  
18      the public.

19          (3) ESSENTIALLY IDENTICAL SERVICES IN A  
20      SPECIFIC GEOGRAPHIC AREA.—Where the Secretary  
21      concerned offers authorizations for more than one  
22      river runner, outfitter, or guide concession operation  
23      to provide essentially identical services in a defined  
24      geographic area, the duration and expiration of con-  
25      cession authorizations shall be identical.

1 **SEC. 5. RATES AND CHARGES TO THE PUBLIC.**

2 In general, rates and charges to the public shall be  
3 set by the concessioner. For concession service agreements  
4 only, a concessioner's rates and charges to the public shall  
5 be subject to the approval of the Secretary concerned in  
6 those instances where the Secretary determines that suffi-  
7 cient competition for such facilities and services does not  
8 exist within or in close proximity to the area in which the  
9 concessioner operates. Such determination shall be based  
10 on criteria which shall be specified in the regulations is-  
11 sued pursuant to section 18. In those instances, the con-  
12 cession service agreement shall state that the reasonable-  
13 ness of the concessioner's rates and charges to the public  
14 shall be reviewed and approved by the Secretary concerned  
15 primarily by comparison with those rates and charges for  
16 facilities and services of comparable character under simi-  
17 lar conditions, with due consideration for length of season,  
18 seasonal variations, average percentage of occupancy, ac-  
19 cessibility, availability and costs of labor and materials,  
20 type of patronage, and other factors deemed significant  
21 by the Secretary concerned.

22 **SEC. 6. SALE OR OTHER TRANSFER OF CONCESSION AU-**  
23 **THORIZATIONS.**

24 (a) CONCESSION SERVICE AGREEMENTS.—

25 (1) APPROVAL REQUIRED.—A concession serv-  
26 ice agreement is transferable or assignable only upon

1 the approval of the Secretary concerned. The Sec-  
2 retary may not approve any such transfer or assign-  
3 ment if the Secretary determines that the prospec-  
4 tive concessioner is or is likely to be unable to com-  
5 pletely satisfy all of the requirements, terms, and  
6 conditions of the contract or that the terms of the  
7 transfer or assignment would preclude providing ap-  
8 propriate facilities or services to the public at rea-  
9 sonable rates.

10 (2) CONSIDERATION PERIOD.—If the Secretary  
11 fails to approve or disapprove a transfer or assign-  
12 ment under paragraph (1) within 90 days after the  
13 date on which the Secretary receives a request for  
14 such an approval, the transfer or assignment shall  
15 be deemed approved.

16 (3) NO MODIFICATION OF TERMS AND CONDI-  
17 TIONS.—The terms and conditions of the concessions  
18 service agreement shall not be subject to modifica-  
19 tion at the time of any transfer or assignment under  
20 this section.

21 (b) CONCESSION LICENSE.—A concession license  
22 may not be transferred.

1 **SEC. 7. COMPETITIVE SELECTION PROCESS FOR CONCES-**  
2 **SION SERVICE AGREEMENTS.**

3 (a) AWARD TO BEST APPLICATION.—The Secretary  
4 shall enter into, and renew, a concession service agreement  
5 with the person whom the Secretary determines in accord-  
6 ance with this section submits the best application through  
7 a competitive process as defined in this section.

8 (b) PROSPECTUS AND ANNOUNCEMENT.—The Sec-  
9 retary concerned shall prepare a prospectus which de-  
10 scribes the concession service opportunity and shall pub-  
11 lish, in appropriate locations, announcements of the avail-  
12 ability of the prospectus and the concession service oppor-  
13 tunity. The announcement shall include (but need not be  
14 limited to) the following:

15 (1) A description of the services and facilities to  
16 be provided.

17 (2) The level of capital investment required (if  
18 any).

19 (3) Terms and conditions of the concession  
20 service agreement.

21 (4) Facilities and services to be provided by the  
22 Secretary to the concessioner.

23 (5) Minimum public services to be offered by  
24 the Secretary.

25 (6) The minimum fees to the United States.



1       (c) FACTORS AND MINIMUM STANDARDS IN DETER-  
2 MINING BEST APPLICATION.—In determining the best ap-  
3 plication, the Secretary concerned shall take into consider-  
4 ation (but shall not be limited to) the following, including  
5 whether the application meets the minimum requirements  
6 (if any) of the Secretary for each of the following:

7           (1) Responsiveness to the prospectus.

8           (2) Quality of visitor services based on the na-  
9       ture of equipment and facilities to be provided.

10          (3) Experience and performance in providing  
11       similar services at reasonable rates.

12          (4) Record of resource protection (as appro-  
13       priate).

14          (5) Financial capability of the applicant.

15          (6) Fees to the United States.

16       (d) SELECTION PROCESS.—

17           (1) BASIS.—The process for selecting the best  
18       applicant shall consist of the following:

19           (A) First, the Secretary concerned shall  
20       identify those applicants who meet the mini-  
21       mum standards (if any) for the factors identi-  
22       fied under subsection (c).

23           (B) Second, from the applicants selected  
24       under subparagraph (A), the Secretary con-  
25       cerned shall rank the applicants without any

1 consideration of fees to the United States and  
2 determine the best qualified applicants.

3 (C) Third, after the best qualified appli-  
4 cants have been identified, the Secretary con-  
5 cerned shall consider fees to the United States.

6 (2) RENEWAL INCENTIVE.—In evaluating appli-  
7 cations for the reissuance of a concession services  
8 agreement, a concessioner is entitled to a renewal in-  
9 centive of—

10 (A) 20 percent of the maximum points  
11 available under such evaluations for perform-  
12 ance which exceeds concession service agree-  
13 ment requirements, as specified in section  
14 8(a)(2)(A), over the life of the previous agree-  
15 ment and shall be considered to be one of the  
16 best-qualified applicants; and

17 (B) 5 percent of the maximum points  
18 available under such evaluations for perform-  
19 ance which fully meets concession service agree-  
20 ments, as specified in section 8(a)(2)(B), over  
21 the life of the previous agreement.

22 (e) INAPPLICABILITY OF NEPA TO TEMPORARY EX-  
23 TENSIONS AND SIMILAR RENEWALS OF CONCESSIONS  
24 AGREEMENTS.—The temporary extension of a concession  
25 authorization, or renewal of a concession authorization

1 which is similar to a previous authorization, is not subject  
2 to the National Environmental Policy Act of 1969 (42  
3 U.S.C. 4331 et seq.).

4 (f) PROVISION FOR ADDITIONAL RELATED SERV-  
5 ICES.—The Secretary concerned may modify the conces-  
6 sion service agreement to allow concessioners to provide  
7 services closely related to such agreement, if the Secretary  
8 concerned determines that such changes would enhance  
9 the safety or enjoyment of visitors and would not unduly  
10 restrict the award of future concession service agreements.

11 **SEC. 8. CONCESSIONER EVALUATIONS.**

12 (a) IN GENERAL.—The Secretary concerned, in con-  
13 sultation with concession industry representatives, shall  
14 develop a program of evaluations of the concessioners op-  
15 erating under a concession service agreement who are pro-  
16 viding visitor services in areas under the jurisdiction of  
17 the Secretary. The evaluations shall be on both an annual  
18 basis as well as cumulative over the duration of the conces-  
19 sion service agreement. The evaluation program shall—

20 (1) include four program areas of quality of vis-  
21 itor services; resource protection (as applicable); fi-  
22 nancial performance; and compliance with concession  
23 service agreement provisions and pertinent laws and  
24 regulations;

25 (2) define four levels of performance—

1 (A) exceeds concession service agreement  
2 requirements;

3 (B) fully meets concession service agree-  
4 ment requirements;

5 (C) probationary; and

6 (D) unsatisfactory; and

7 (3) be based on criteria which—

8 (A) are objective, measurable, and attain-  
9 able; and

10 (B) shall include general standards appli-  
11 cable to all concession operations, industry-spe-  
12 cific standards, and standards developed by the  
13 Secretary concerned and the concessioner for  
14 each concession service agreement.

15 (b) ANNUAL EVALUATIONS.—

16 (1) REQUIREMENTS.—The Secretary concerned  
17 shall annually conduct an evaluation of each conces-  
18 sioner and shall assign an overall rating for each  
19 concessioner for each year. The procedure for any  
20 performance evaluation shall be provided in advance  
21 to the concessioner, and the concessioner shall be en-  
22 titled to a complete explanation of any rating given.  
23 If the Secretary's performance evaluation for any  
24 year results in an unsatisfactory rating of the con-  
25 cessioner, the Secretary concerned shall so notify the

1 concessioner, in writing, and shall provide the con-  
2 cessioner with a list of the minimum requirements  
3 necessary to receive a rating which fully meets con-  
4 cession service agreement requirements.

5 (2) SUSPENSION, REVOCATION, AND TERMI-  
6 NATION OF AUTHORIZATION.—The Secretary con-  
7 cerned may suspend, revoke, or terminate a conces-  
8 sion authorization if the concessioner fails to correct  
9 and meet the minimum requirements identified by  
10 the Secretary within the limitations established by  
11 the Secretary at the time notice of the unsatisfactory  
12 rating is provided to the concessioner.

13 (c) EFFECT OF UNSATISFACTORY RATING.—Any  
14 concessioner who receives an annual rating of unsatisfac-  
15 tory may not be rated as exceeding concession service  
16 agreement requirements over the life of the concession  
17 service agreement.

18 **SEC. 9. FEES CHARGED BY UNITED STATES FOR CONCES-**  
19 **SION AUTHORIZATIONS.**

20 (a) IN GENERAL.—The Secretary concerned shall  
21 charge a fee for the privilege of providing concession serv-  
22 ices pursuant to this Act. The fee for any concession serv-  
23 ice agreement may include any of the following:

24 (1) An annual cash payment for the privilege of  
25 providing concession services.

1           (2) The amount required for capital improve-  
2           ments required pursuant to section 11(a).

3           (3) Fees for use of Government facilities.

4           (4) Expenditures for maintenance of or im-  
5           provements to Government-owned facilities.

6           (b) ESTABLISHMENT OF AMOUNT.—

7           (1) MINIMUM ACCEPTABLE FEE.—The Sec-  
8           retary concerned shall establish a minimum fee  
9           which is acceptable to the Secretary under this sec-  
10          tion and shall include the minimum fee in the pro-  
11          spectus under section 7. This fee shall be based on  
12          historical data, where available, as well as industry-  
13          specific and other market data available to the Sec-  
14          retary concerned.

15          (2) FINAL FEE.—Except as provided by para-  
16          graph (3), the final fee shall be the amount bid by  
17          the selected applicant under section 7.

18          (3) ESSENTIALLY IDENTICAL SERVICES IN A  
19          SPECIFIC GEOGRAPHIC AREA.—Where the Secretary  
20          concerned simultaneously offers authorizations for  
21          more than one river runner, outfitter, or guide con-  
22          cession operation to provide essentially identical  
23          services in a defined geographic area, the concession  
24          fee for all such concessioners shall be determined by

1 taking an average of the bids submitted by all se-  
2 lected applicants.

3 (c) ADJUSTMENT OF FEES.—

4 (1) IN GENERAL.—The amount of the fee shall  
5 be set at the beginning of the concession authoriza-  
6 tion and may only be modified—

7 (A) on the basis of inflation, if the annual  
8 payment is not determined by a percentage of  
9 gross revenue (as measured by changes in the  
10 consumer price index), to reflect changed or  
11 unmet conditions identified in the prospectus,  
12 or in the event of an unforeseen disaster; and

13 (B) by mutual agreement between the Sec-  
14 retary concerned and the concessioner at any  
15 time.

16 (2) CPI.—For the purposes of adjustments for  
17 inflation under paragraph (1), the Federal agencies  
18 shall select a consumer price index published by the  
19 Bureau of Labor Statistics and shall use such index  
20 in a consistent manner.

21 (d) CONCESSION LICENSE FEE.—The fee for a con-  
22 cession license shall cover the program administrative  
23 costs and may not be changed over the life of the license.

1 **SEC. 10. DISPOSITION OF FEES.**

2 (a) ESTABLISHMENT OF ACCOUNTS.—The Secretary  
3 concerned, in consultation with the Secretary of the Treas-  
4 ury, shall establish a special account in the Treasury for  
5 each area subject to a concession authorization under this  
6 Act and shall establish an agencywide special account in  
7 the Treasury for each of the land management agencies  
8 identified in section 2. All amounts deposited into such  
9 special accounts shall be available without further appro-  
10 priation until expended for use by the Secretary con-  
11 cerned.

12 (b) AVAILABILITY OF FUNDS.—Seventy-five percent  
13 of the amounts collected under this Act with respect to  
14 an area shall be deposited in the special account estab-  
15 lished for such area under subsection (a) and shall remain  
16 available for expenditure for visitor services and facilities.  
17 The remaining 25 percent of such amounts shall be placed  
18 in the special account established for the agency concerned  
19 under subsection (a) and shall be available for expenditure  
20 for such services and facilities for use on an agencywide  
21 basis.

22 (c) INVESTMENT OF ACCOUNTS.—The Secretary of  
23 the Treasury shall invest such portion of amounts in each  
24 account established under this section as is not in the  
25 judgment of the Secretary concerned required to meet cur-  
26 rent withdrawals. Such investments shall be in public debt



1 securities with maturities suitable to the needs of each  
2 such account, as determined by the Secretary concerned,  
3 and bearing interest at rates determined by the Secretary  
4 of the Treasury, taking into consideration current market  
5 yields on outstanding marketable obligations of the United  
6 States of comparable maturities. The income on invest-  
7 ments from an account shall be credited to and form a  
8 part of the account.

9 (d) EXEMPTION OF FEES.—Amounts collected under  
10 this section and amounts received from the sale of lands  
11 under section 14 shall not be taken into account for the  
12 purposes of the Act of May 23, 1908, and the Act of  
13 March 1, 1911 (16 U.S.C. 500), the Act of March 4, 1913  
14 (16 U.S.C. 501), the Act of July 22, 1937 (7 U.S.C.  
15 1012), the Act of August 8, 1937, and the Act of May  
16 24, 1939 (43 U.S.C. 1181f et seq.), the Act of June 14,  
17 1926 (43 U.S.C. 869–4), chapter 69 of title 31, United  
18 States Code, section 401 of the Act of June 15, 1935 (16  
19 U.S.C. 715s), the Land and Water Conservation Fund Act  
20 of 1965 (16 U.S.C. 460/–1–4--460/–11), and any other  
21 provision of law relating to revenue allocation.

22 (e) ACCOUNTABILITY.—The regulations developed  
23 under section 18 shall provide for a uniform program of  
24 administration and expenditure of funds from the special  
25 accounts established under this section. The Comptroller

1 General of the United States shall conduct periodic audits  
2 to ensure that such funds are accounted for and expended  
3 in accordance with such program.

4 **SEC. 11. CAPITAL IMPROVEMENTS.**

5 (a) PRIVATE SECTOR DEVELOPMENT.—It is the pol-  
6 icy of the United States to encourage the private sector  
7 to develop, own and maintain to the extent possible such  
8 public recreation facilities as the Secretary concerned de-  
9 termines through the planning process would enhance  
10 public use and enjoyment of Federal lands.

11 (b) DETERMINATION OF REMOVAL OR RETENTION  
12 OF FACILITIES AT END OF CONCESSION AUTHORIZA-  
13 TION.—At the end of any concession authorization entered  
14 into under this Act, the concessioner shall either remove  
15 any capital improvements and restore the site, or sell such  
16 improvements to the next concessioner, as determined by  
17 the Secretary concerned. The Secretary shall base such de-  
18 termination on the following factors:

19 (1) The remaining service life of the improve-  
20 ments.

21 (2) The costs associated with the removal of  
22 such improvements and restoration of the site and  
23 the subsequent reconstruction (if any) of public  
24 recreation facilities.

1           (3) The impact on resources from the removal  
2           of such improvements and restoration of the site and  
3           the subsequent reconstruction (if any) of public  
4           recreation facilities.

5           (4) The historical significance of such improve-  
6           ments.

7           (5) The impact on the public if such recreation  
8           facilities are no longer available and the existence of  
9           alternative facilities to support public use.

10       If the Secretary concerned determines that removal of fa-  
11       cilities is the appropriate course of action, the Secretary  
12       shall comply with the National Environmental Policy Act  
13       of 1969 prior to any action to remove such facilities.

14       (c) APPRAISAL.—

15           (1) INDEPENDENT APPRAISAL REQUIRED.—If,  
16       pursuant to subsection (b), the Secretary concerned  
17       determines that the public would be best served by  
18       the sale of existing facilities to the subsequent con-  
19       cessioner, the Secretary, in consultation with the  
20       concessioner, shall arrange for an independent ap-  
21       praisal to determine the fair market value of all cap-  
22       ital improvements on the site in which the conces-  
23       sioner has an interest. The appraisal shall be per-  
24       formed by an appraiser with significant experience

1 in the appraisal of assets similar to those that are  
2 subject to the appraisal.

3 (2) REQUIREMENTS.—The appraisal required  
4 by paragraph (1) shall be performed not earlier than  
5 18 months before the expiration of the concession  
6 service agreement and shall employ the income ap-  
7 proach to valuation in determining the fair market  
8 value of any such improvement used primarily for  
9 the production of income—

10 (A) in a manner consistent with the proce-  
11 dures and assumptions then generally employed  
12 for similar income-producing assets by apprais-  
13 ers who are members of the American Institute  
14 of Real Estate Appraisers or the Society of  
15 Real Estate Appraisers; and

16 (B) assuming a future fee equal to the av-  
17 erage annual fee payable by the concessioner  
18 during the term of the concessioner's agree-  
19 ment.

20 (3) LATER ACQUIRED OR CONSTRUCTED PROP-  
21 erty.—The value of improvements constructed or  
22 acquired by the concessioner after the date of the  
23 appraisal under paragraph (1) shall be the conces-  
24 sioner's original cost of such construction or acquisi-  
25 tion.

1           (4) PROCEDURES IN EVENT OF DISAGREEMENT  
2       WITH INDEPENDENT APPRAISAL.—If the parties  
3       have not agreed upon the value of capital improve-  
4       ments under this section, the issues in controversy  
5       shall be resolved in accordance with the provisions of  
6       subchapter IV of chapter 5 of title 5, United States  
7       Code (relating to alternative means of dispute reso-  
8       lution in the administrative process), as in effect be-  
9       fore October 1, 1995.

10 **SEC. 12. DISPUTE RESOLUTION.**

11       (a) BOARD OF CONCESSION APPEALS.—

12           (1) ESTABLISHMENT.—The President shall es-  
13       tablish an independent administrative review board  
14       to be known as the Board of Concession Appeals.  
15       The Board shall be similar to, and operate in a simi-  
16       lar manner as, the Interior Board of Land Appeals.

17           (2) JURISDICTION.—The Board shall adjudicate  
18       disputes between the Federal Government and con-  
19       cessioners arising under this Act, including (but not  
20       limited to) disputes regarding the issuance, revoca-  
21       tion, suspension, or termination of a concession au-  
22       thorization, performance and evaluation ratings,  
23       sales of concession service agreements, and rate ap-  
24       proval. The expiration of a concession authorization  
25       shall not be subject to appeal to the Board.

1 (b) ADMINISTRATIVE REVIEW.—Appeals of decisions  
2 may be taken to the Board after one level of review of  
3 decisions made within an agency.

4 (c) JUDICIAL REVIEW.—

5 (1) IN GENERAL.—A person may seek judicial  
6 review of decisions made by the Board.

7 (2) CONCESSION SERVICE AGREEMENTS.—Judi-  
8 cial review of decisions rendered by the Board re-  
9 garding concession service agreements shall be to the  
10 United States Court of Federal Claims in accord-  
11 ance with section 1491 of title 28, United States  
12 Code (commonly referred to as the “Tucker Act”).

13 (3) CONCESSION LICENSES.—Judicial review of  
14 decisions rendered by the Board regarding conces-  
15 sion licenses shall be to the appropriate Federal Dis-  
16 trict Court.

17 (d) INAPPLICABILITY OF CERTAIN PROVISIONS.—  
18 Disputes arising under this Act shall not be subject to the  
19 jurisdiction of the General Accounting Office to review bid  
20 protests under the Competition in Contracting Act of  
21 1984.

1 **SEC. 13. BREACH OF CONTRACT BY THE SECRETARY CON-**  
2 **CERNED.**

3 If the Secretary concerned breaches a concession au-  
4 thorization, the Secretary shall pay just compensation to  
5 the concessioner.

6 **SEC. 14. RECORDKEEPING.**

7 (a) MAINTENANCE AND ACCESS.—Each concessioner  
8 shall keep such records as the Secretary concerned may  
9 prescribe to enable the Secretary to determine that all  
10 terms of the concession authorization have been and are  
11 being faithfully performed, and the Secretary and his duly  
12 authorized representatives shall, for the purpose of audit  
13 and examination, have access to said records and to other  
14 books, documents, and papers of the concessioner perti-  
15 nent to the concession authorization and all the terms and  
16 conditions thereof.

17 (b) ACCESS BY COMPTROLLER GENERAL.—The  
18 Comptroller General of the United States or any of his  
19 duly authorized representatives shall, until the expiration  
20 of five calendar years after the close of the business year  
21 of each concessioner have access to and the right to exam-  
22 ine any pertinent books, documents, papers, and records  
23 of the concessioner related to the concession authorization  
24 involved.

1 **SEC. 15. PRIVATIZATION OF FOREST SERVICE AND BLM**  
2 **LANDS SUBJECT TO CONCESSION LEASES.**

3 (a) AUTHORIZATION TO SELL.—

4 (1) IN GENERAL.—Not later than the earlier of  
5 five years after the date of the enactment of this Act  
6 or the expiration of a lease of qualifying concession  
7 lands, the Secretary of Agriculture with respect to  
8 National Forest System lands and the Secretary of  
9 the Interior with respect to Bureau of Land Man-  
10 agement lands may sell such lands to the owners of  
11 such facilities. Any such sale shall be at fair market  
12 value and, subject to valid existing rights, shall  
13 transfer all right, title, and interest of the United  
14 States in and to the lands.

15 (2) QUALIFYING CONCESSION LANDS.—For the  
16 purposes of subsection (a), lands are qualifying con-  
17 cession lands if such lands are—

18 (A) subject to a lease on the date of the  
19 enactment of this Act for private concession fa-  
20 cilities with a fair market value greater than  
21 \$2,000,000; and

22 (B) located either adjacent to the boundary  
23 of the Federal lands or adjacent to other sig-  
24 nificant private inholdings.

25 (b) APPRAISAL.—



1           (1) IN GENERAL.—The appropriate Secretary  
2       shall provide for an independent appraisal of the  
3       lands and interests therein to be transferred pursu-  
4       ant to subsection (a). The appraiser shall—

5           (A) utilize nationally recognized appraisal  
6       standards, including to the extent appropriate  
7       the uniform appraisal standards for Federal  
8       land acquisition; and

9           (B) not include the value of any improve-  
10      ment placed on the lands by the concessioner.

11          (2) APPRAISAL REPORT.—The appraiser shall  
12      submit a detailed report to the Secretary.

13          (3) PAYMENTS.—The Secretary may accept and  
14      use donated funds to pay, in whole or in part, for  
15      appraisals under this section.

16          (d) USE OF PROCEEDS BY THE APPROPRIATE SEC-  
17      RETARY.—The appropriate Secretary shall deposit 50 per-  
18      cent of the funds generated through sales under this sec-  
19      tion to the credit of the appropriate agency in the agency-  
20      wide account established under section 10(b). The remain-  
21      ing 50 percent of such amount shall be deposited in the  
22      Treasury as miscellaneous receipts.

1 **SEC. 16. APPLICATION OF GENERAL GOVERNMENTAL AC-**  
2 **QUISITION REQUIREMENTS.**

3 The following laws and regulations shall not apply to  
4 concession service agreements and concession licenses  
5 under this Act:

6 (1) Title III of the Federal Property and Ad-  
7 ministrative Services Act of 1949 (41 U.S.C. 251–  
8 266).

9 (2) The Office of Federal Procurement Policy  
10 Act (41 U.S.C. 401 et seq.).

11 (3) The Federal Acquisition Streamlining Act  
12 of 1994 (Public Law 103–355).

13 (4) The Brooks Automatic Data Processing Act  
14 (40 U.S.C. 759).

15 (5) Chapters 137 and 141 of title 10, United  
16 States Code.

17 (6) The Federal Acquisition Regulation and any  
18 laws not listed in paragraphs (1) through (5) provid-  
19 ing authority to promulgate regulations in the Fed-  
20 eral Acquisition Regulation.

21 (7) The Act of June 20, 1936 (20 U.S.C. 107;  
22 commonly referred to as the “Randolph-Sheppard  
23 Act”) and the Service Contract Act of 1965 (41  
24 U.S.C. 351 et seq.).

1 **SEC. 17. RULES OF CONSTRUCTION.**

2 Concession programs of an agency on Federal lands  
3 and waters subject to this Act shall be fully consistent with  
4 the agency's mission and laws applicable to the agency.  
5 Nothing in this Act shall be construed as limiting or re-  
6 stricting any right, title, or interest of the United States  
7 in any land or resources.

8 **SEC. 18. REGULATIONS.**

9 (a) IN GENERAL.—Within one year after the date of  
10 enactment of this Act, the Secretary of the Interior, Sec-  
11 retary of Agriculture, and Secretary of the Army shall de-  
12 velop a single set of regulations to implement this Act.

13 (b) QUALIFICATIONS OF AGENCY PERSONNEL AS-  
14 SIGNED CONCESSION MANAGEMENT DUTIES.—The Sec-  
15 retary, by regulation under subsection (a) and taking into  
16 account the provisions of this Act, shall specify the mini-  
17 mum qualifications required for agency personnel assigned  
18 predominantly to concession management duties.

19 **SEC. 19. RELATIONSHIP TO OTHER EXISTING LAWS.**

20 (a) REPEALS.—

21 (1) The Act entitled “An Act relating to the es-  
22 tablishment of concession policies in the areas ad-  
23 ministered by the National Park Service and for  
24 other purposes” (16 U.S.C. 20–20g) is repealed.

25 (2) The last paragraph under the heading  
26 “FOREST SERVICE” in the Act of March 4, 1915 (38

1 Stat. 1101), as amended by the Act of July 28,  
2 1956 (chap. 771; 70 Stat. 708) (16 U.S.C. 497), is  
3 repealed.

4 (3) Section 7 of the Act of April 24, 1950 (16  
5 U.S.C. 580d) is repealed.

6 (b) SUPERSEDED PROVISIONS.—The provisions of  
7 this Act shall supersede the provisions of—

8 (1) the Federal Water Project Recreation Act  
9 of 1965 (16 U.S.C. 460l–12–21);

10 (2) the Federal Land Policy and Management  
11 Act of 1976 (Oct. 21, 1976);

12 (3) the Recreation and Public Purposes Act (43  
13 U.S.C. 869 et seq.);

14 (4) section 4 of the Act entitled “An Act au-  
15 thorizing the construction of certain public works on  
16 rivers and harbors for flood control, and for other  
17 purposes” (16 U.S.C. 460d);

18 (5) sections 103 and 926 of the Water Re-  
19 sources Development Act of 1986 (100 Stat. 4084  
20 and 4197);

21 (6) Public Law 87–714 (16 U.S.C. 460k et  
22 seq.; commonly known as the “Refuge Recreation  
23 Act”); and

24 (7) the National Wildlife Refuge System Ad-  
25 ministration Act of 1966 (16 U.S.C. 668dd).

1 (c) SAVINGS.—

2 (1) IN GENERAL.—The repeal of any provision,  
3 and the superseding of any provision, of an Act re-  
4 ferred to in subsection (a) or (b) shall not affect the  
5 validity of any authorizations entered into under  
6 such Act. The provisions of this Act shall apply to  
7 any such authorizations, except to the extent such  
8 provisions are inconsistent with the express terms  
9 and conditions of such authorizations.

10 (2) RIGHT OF RENEWAL.—The right of renewal  
11 provided for by any concession contract under any  
12 such provision shall be preserved for a single renewal  
13 of a contract following the enactment of, or conces-  
14 sion authorization under, this Act.

15 (3) VALUE OF POSSESSORY INTEREST.—Noth-  
16 ing in this Act shall be construed to change the  
17 value of existing possessory interest as identified in  
18 concession contracts entered into before the enact-  
19 ment of this Act.

20 (d) ANILCA.—Nothing in this Act shall be construed  
21 to amend, supersede or otherwise affect any provision of  
22 the Alaska National Interest Lands Conservation Act (16  
23 U.S.C. 3101 et seq.) relating to revenue-producing visitor  
24 services.

○

HR 2028 IH——2